

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

David Arnold,

Plaintiff,

v.

Case No. 1:22cv446

Warden, Lebanon
Correctional Institution,

Defendant.

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on August 21, 2023. (Doc. 13).

As of the date of this order, Petitioner has not objected to the R&R. By failing to do so, he has waived the right to de novo review of the Magistrate Judge’s recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); see 28 U.S.C. § 636(b)(1)(C).

Accordingly, the R&R, (Doc. 13), is hereby **ADOPTED**. Consistent with the recommendation of the Magistrate Judge:

- 1) The Petition is **DENIED** with prejudice on the ground that the Petition is time-barred under 28 U.S.C. § 2244(d).
- 2) A certificate of appealability will not issue with respect to any of the claims for relief contained in the Petition because jurists of reason would not debate whether the Court is correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000).

3) With respect to any application by Petitioner to proceed in forma pauperis on appeal, the Court **CERTIFIES** pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this order would not be taken in “good faith,” and therefore **DENIES** Petitioner leave to appeal in forma pauperis upon a showing of financial necessity. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Michael R. Barrett
Michael R. Barrett, Judge
United States District Court